

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

**54100.1 Policy**

It shall be Department policy, consistent with correctional best practice, to provide through the appeal process the means for expressing and resolving identified grievances to inmates or parolees and an administrative mechanism for review of departmental policies, decisions, actions, conditions, or omissions that have a material adverse effect on the health, safety, welfare, status and/or program of inmates and parolees.

**54100.2 Purpose**

The purpose of this Article is to:

- Maintain the integrity of the Department through a fair, objective and effective appeals process.
- Provide for the resolution of inmate or parolee grievances at the lowest possible administrative level with timely responses to the appellant.
- Provide the inmate or parolee grievant a meaningful remedy focused on correcting an identified problem.
- Afford the grievant an avenue for the exhaustion of administrative remedies prior to initiation of a court action.
- Audit the internal processes and operations of the Department to identify, modify, or eliminate practices which are unnecessary or may impede the accomplishment of correctional goals.
- Utilize inmate and parolee appeal information as an early warning indicator to identify and respond to potential sources of liability to the Department.
- Gather and disseminate data and statistics about appeals in order to satisfy statutory responsibilities and in furtherance of policy, management and program improvement goals.

**54100.3 Responsibility**

Each hiring authority shall implement the appeal process and ensure it operates effectively and consistently with specified policies as set forth herein.

- At least one staff member, at a level not less than a CC-II, shall be designated as the appeals coordinator in each institution; and one staff member of a level not less than PA-II shall be designated as the appeals coordinator in each parole region.
- The appeals coordinator or delegated staff under direct supervision shall process all appeals, monitor the system, prepare the quarterly appeals report, recommend corrective action where indicated, and work with the IST officer to ensure training on the appeals process is carried out. Delegated staff under appeals coordinator direction shall be properly trained, audited regularly and undertake only those duties and responsibilities appropriate to their job classification, background and experience.
- The Appeals Coordinator's Office shall receive, log, route, and monitor disposition of the CDCR Form 602, Inmate/Parolee Appeal and the ancillary appeal forms, CDCR 602-A, Inmate/Parolee Appeal Form Attachment and the CDCR 602-G Inmate/Parolee Group Appeal supplement.
- Hiring authorities are expected to meet with appeals coordinators on a regular basis to receive and disseminate information respecting process, emergent issues, best practice trends and related matters.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- Each inmate upon arrival to an institution shall be provided written material (instructions, guidelines and/or examples of forms as appropriate) describing the appeal process. Each inmate prior to being released to parole shall be provided with a copy of CDC Form 1570, Guidelines for Parole, which contains a notice of appeal rights and procedures for filing an appeal. Each parole unit shall maintain copies of the appeal procedure which shall be made available to the parolee upon request. Parolees shall be informed of the appeal process at the initial parole interview.
- Copies of DOM 54100, Inmate/Parolee Appeals, and any facility appeal supplement shall be filed and maintained in each inmate law library including libraries in segregated housing units, community correction facilities, treatment and/or transitional living and out-of-state facilities where inmates/parolees remain under the custody of the Department.

**54100.4 Right to Appeal**

Any inmate or parolee under the Department's jurisdiction may appeal any policy, decision, action, condition, or omission by the Department or its staff that the inmate or parolee can demonstrate as having a material adverse effect on his or her health, safety or welfare. A material adverse effect means harm or injury that is measurable or demonstrable or the reasonable likelihood of such harm or injury. In either case, the harm or injury must be due to any policy, decision, action, condition or omission by the Department or its staff. In the context of this article, an "appellant" means an inmate or parolee who has submitted an accepted appeal and a "remedy" means a process or means to address an issue or correct a wrong.

No reprisals shall be taken for the good faith use of or responsible participation in the appeals process. This shall not prohibit appeal restrictions against an appellant for abusing the appeal process nor shall it prohibit the pursuit of disciplinary sanctions for violations of department rules. A complaint of reprisal may be pursued through the appeals process. If, after investigation, it is determined that a reprisal has occurred, the staff member(s) involved shall be subject to adverse action in accordance with the employee discipline policies of the Department.

**54100.5 Exclusions**

The CDCR Form 602, Inmate/Parolee Appeal Form, shall not be utilized in the following appeals:

- Board of Parole Hearings (BPH).
- Narcotic Addict Evaluation Authority (NAEA). (See 15 CCR §5400, Appeals, NAEA Regulations.)
- Health or Safety complaints – California Prison Industry Authority (CALPIA). (See 15 CCR §3084.9(e) and 8 CCR §344.40(a).)

**54100.6 Appeal Preparation**

The Department shall make its appeal forms readily available to all inmates and parolees, ensuring that those who have difficulty communicating have equal access to the appeal process and the timely assistance necessary to participate in this process including completing or clarifying the appeal. Timely, in this particular instance, means promptly and without deliberate delay, insofar as prevailing organizational resources permit.

The inmate or parolee shall describe the specific issue under appeal, the relief requested and state all facts known and available to him/her regarding the issue being appealed upon one original copy of the CDCR Form 602, and if needed to clarify the issue or matter in question, one original Inmate/Parolee Appeal Form Attachment (CDCR 602-A), attach all original relevant

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

supporting documents and forward them, in a single mailing, to the appropriate appeals office.

The CDCR Form 602 provides a system of accountability at each level of review. When the appeal material is submitted without a completed and signed CDCR Form 602, the appeals coordinator shall return it to the inmate or parolee with instructions to fill out and sign the CDCR Form 602 (and/or CDCR Form 602-A, if applicable) and resubmit the appeal for processing.

- If originals are not available, copies may be submitted with an explanation and the appeals coordinator shall have the discretion to request that any submitted copy is verified by staff.
- The inmate or parolee is limited to the space provided on the CDCR Form 602 and one CDCR Form 602-A to describe the specific issue and action requested. The appeal content must be printed legibly in ink or typed on the lines provided on the appeal forms in no smaller than a 12-point font. There shall be only one line of text on each line provided on these forms.
- The inmate or parolee shall list all staff member(s) involved and shall describe their involvement in the issue. To assist in the identification of staff, the inmate or parolee shall include the staff member's last name, first initial, title or position (if known) and the date(s) of the staff member's involvement in the issue under appeal. Absent the requested identifying information, the inmate or parolee shall provide any other available information that would assist the appeals coordinator in making a reasonable attempt to identify the staff in question.
- Relevant supporting documents are defined as documents needed to substantiate the allegation(s) made in the appeal, including but not limited to, classification chronos, property inventory sheets, receipts, completed disciplinary reports with supplements, incident reports, notifications of disallowed mail, trust account statements, memoranda, letters, medical records and/or a written request for interview, item or service (See DOM 54100.8). Only supporting documents necessary to clarify the appeal shall be attached to the appeal.
- The inmate or parolee shall not delay submitting an appeal within established time limits if unable to obtain supporting documents, but shall submit the appeal with all available supporting documents and provide an explanation why any remaining supporting documents are not available.
- Supporting documentation does not include documents that simply restate the matter under appeal, argue its merits or raise new issues not identified in the appeal and stated as such on the relevant original 602 forms. New issues raised in the supporting documents shall not be addressed, and any decision rendered will pertain only to the present appeal issue and requested action(s).
- The inmate or parolee shall not include or attach extraneous physical objects, exhibits, tabs or dividers, including organic materials of any type with their appeal packet or otherwise deface or contaminate submitted forms and attachments. Appeals submitted with hazardous or toxic material that present a threat to the safety and security of staff, inmates or the institution may subject the appellant to disciplinary action and/or criminal charges commensurate with the specific act.
- For third level appeals, the inmate or parolee shall be responsible for mailing the appeal form and supporting documentation directly to the third level Appeals Chief using their own funds and US mail service, unless the appellant is indigent in which case the third level appeal shall be processed in accordance with the indigent mail provisions (15 CCR §3138). An indigent

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

inmate/parolee shall not, however, be required to divide their appeal into separate mailings to conform to indigent mail weight restrictions.

- Another inmate or parolee, staff member, family member or other interested party may assist the inmate or parolee in completing the appeal form. However, the act of providing such assistance does not render or convey upon that individual status as party to the appeal. In addition, assistance is disallowed if the act of providing such would create an unmanageable situation including but not limited to; acting contrary to the principles set forth in 15 CCR 3163 and 3270, allowing one offender to exercise unlawful influence/assume control over another, require an offender to access unauthorized areas or areas which would require an escort, or cause avoidance or non-performance in assigned work and program activities.
- An inmate or parolee shall not submit an appeal on behalf of another person.
- Inmates or parolees shall not give any form of compensation to other inmates or parolees or receive any form of compensation for assisting in the preparation of another's appeal. The giving or receiving of compensation is considered misconduct and is subject to disciplinary action.
- The appellant shall sign, date, and submit the appropriate appeal document(s) at each level in the appeal review process.
- Unless otherwise provided for in this article, the appeal shall not be accepted at the third level for review without first having been reviewed at second level.

**54100.7 Group Appeal**

A group of inmates or parolees may appeal a specific issue that affects all group members. In this situation, one CDCR Form 602 shall be accompanied by an Inmate/Parolee Group Appeal (CDCR Form 602-G), containing the name, department identification number, assignment, housing and dated signature of the inmate or parolee who prepared the appeal.

- This appeal shall be logged as one appeal.
- Each CDCR Form 602-G shall state the appeal issue, the action requested and affirmation that the undersigned agree with the appeal issue/action requested.
- The legible names of the other participating inmates or parolees with dated signatures, departmental identification numbers, assignments, and housing shall be entered on the CDCR Form 602-G.
- Only signatures submitted on a CDCR Form 602-G shall be accepted for purposes of a group appeal.
- Sufficient interviews (one or more) with the participating inmates or parolees shall be held to clarify the issue under appeal.
- At each level of review, a response shall be attached to the CDCR Form 602 and returned to the appellant who shall then share the response with all inmates or parolees who signed the CDCR Form 602-G.
- If the inmate or parolee submitting the group appeal is transferred, released, or requests withdrawal from the appeal, the response shall be addressed to the next name on the CDCR Form 602-G, who shall then share the appeal response with the other group appellants.
- Group appeals shall not be cancelled at the request of the original individual appellant unless all of the inmate or parolee signatories are released, transferred, or agree to withdraw the appeal.
- A group appeal shall not be accepted or processed if the matter under appeal requires a

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

response to a specific set of facts (such as disciplinary and staff complaint appeals) which are not the same for all participants in the appeal. In such case, the group appeal shall be screened out and returned to the original appellant with direction to advise all those who signed the CDCR Form 602-G to submit individual appeals of their separate issues.

- An inmate or parolee who signs a group appeal is ineligible to submit a separate appeal on the same issue.
- A group appeal counts toward each appellant's allowable number of appeals filed in a 14 calendar day period.

**54100.7.1 Multiple Appeals of the Same Issue**

Instances where a number of inmates or parolees have independently of each other filed an identical appeal regarding the same issue arising from similar circumstances will be considered multiple appeals of the same issue.

- The original (initial or first) appellant and, as needed for clarification of the matter or issue, one or more other inmates/parolees concerned shall be interviewed, and a response given to the inmate or parolee who filed the initial appeal.
- This initial appeal response will serve as a template for all other responses to the same issue.

A statement shall be included in the initial response indicating that the appeal has been designated one of multiple identical appeals and a common response is being distributed to each appellant.

- This appeal response shall be given to each inmate/parolee with the recipient's name and identification number substituted and shall state that one or more appellant was interviewed regarding the issue.
- All multiple appeals shall be individually logged. Any appeal of the same, identical issue received subsequently shall be identified as a multiple appeal in the response which shall reference the original interview date(s) and redact information that would identify other appellants individually.
- An unrelated appeal issue submitted in conjunction with a multiple appeal of the same issue is subject to processing as an individual appeal separate from the multiple appeal topic.

**54100.8 Supporting Documents**

Prior to the submission of an appeal to the appeals coordinator, the inmate or parolee shall obtain and attach all supporting documents necessary for the substantiation, clarification and/or resolution of his or her appeal issue.

- The inmate or parolee shall not delay submitting an appeal within time limits established in DOM 54100.16 if unable to obtain supporting documents, but shall submit the appeal with all available supporting documents and provide in Part B of the CDCR Form 602 an explanation why any remaining supporting documents are not available.
- The time limits for filing an appeal are not stayed by failure to obtain supporting documentation.
- Failure to attach all necessary supporting documents may result in the appeal being rejected as specified in 15 CCR §3084.6/DOM 54100.11. The appeals coordinator (or when appropriate, third level Appeals Chief) shall in such circumstances inform the inmate or parolee that the appeal is rejected because necessary supporting documents are missing. The appellant shall be allowed an additional 30 calendar days to secure any missing supporting documents and resubmit the appeal.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- The appeals coordinator may grant additional time extensions beyond the initial 30 calendar day extension if the inmate or parolee submits a reasonable explanation why the supporting documents still are not available.
- Appellants shall not attach copies of previously processed appeals as supporting documents to the present (current) appeal, except when appealing a previously cancelled appeal or when expressly requested by the appeals coordinator. The appeals office shall clearly stamp as “attachment” any appeals form (Form 602, 602-A or 602-G) submitted as an exhibit under these circumstances.

Supporting documents include, but are not limited to the inmate’s or parolee’s copy of the following:

**Disciplinary**

- An appeal of an administrative or serious disciplinary action requires as supporting documentation the completed CDC Form 115, Rules Violation Report (RVR).
  - A disciplinary action is not considered complete until all processing requirements including the hearing, postponement and any re-hearing are completed as evidenced by the signature of the Chief Disciplinary Officer (CDO).
  - The date the final RVR copy is issued to the appellant shall serve to establish the time limits for filing an appeal of the RVR, not the date of the disciplinary hearing.
- An appeal of a CDC Form 128-A, Custodial Counseling Chrono, requires the CDC Form 128-A to be submitted as a supporting document.

**Classification**

- An appeal of a classification committee action requires as supporting documentation the CDC Form 128-G Classification Chrono, reflecting the committee’s action under appeal. If the committee’s action did not include a referral to the Classification Services Representative (CSR), the date of the committee’s action shall serve to establish the time limits for filing an appeal.
- An appeal of a classification committee action that requires CSR endorsement or decision including, but not limited to, affixing a suffix or assessing an administrative determinant, shall include the CDC Form 128-G, Classification Chrono, reflecting the CSR’s endorsement or decision. The date of the CSR’s endorsement or action shall serve to establish time limits for filing an appeal.
- An appeal of a classification committee action recommending transfer to another facility, prison, or program requiring CSR endorsement or decision, shall include as a supporting document, the CDC Form 128-G, Classification Chrono, reflecting the CSR’s endorsement or decision. The filing of an appeal of a transfer endorsement/decision shall not normally be cause to stay or delay the transfer except in extraordinary circumstances and at the discretion of the Warden or designee.

**Parole**

- An appeal of conditions of parole including special conditions requires as supporting documentation the inmate/parolee’s CDC Form 1515, Notice and Conditions of Parole. A verified copy of the original Notice and Conditions of Parole shall be accepted by the appeals coordinator in place of the parolee’s copy.
- An appeal of county of last legal residence may be submitted within 30 calendar days

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

following the inmate's receipt of the CDCR Form 611 Release Program Study, completed and returned to the institution/facility by the parole region.

- Except in those cases where an appeals coordinator determines a CDCR Form 2195, Non-Revocable Parole Eligibility Screening form is not available, an appeal of non-revocable parole requires this form as supporting documentation.

**Mail**

- An appeal of disallowed/disapproved mail, magazine or publication shall include as a supporting document the CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications, received by the inmate informing him or her of the disapproval of the mail, magazine or publication under appeal.

**Property**

- An appeal of a property issue resulting from a cell/dorm/room search shall include the search receipt as a supporting document.
- An appeal of a property issue arising from the inmate's placement in segregated housing shall include a copy of the CDC Form 1083, Inmate Property Inventory, reflecting staff's inventory of the inmate's property at the time of his/her placement in segregated housing.
- An appeal of a property issue arising from the inmate's transfer shall include a copy of the CDC Form 1083, Inmate Property Inventory, from the sending institution reflecting staff's inventory of the inmate's property in preparation for the inmate's transport/transfer and a copy of the CDC Form 1083 provided to the appellant at the time of receipt of his/her property at the receiving institution.

**CDCR Form 22**

- The original of the CDCR Form 22, Inmate/Parolee Request for Interview, Item or Service, processed through the supervisory level pursuant to Title 15 CCR §3086 need not be included as supporting documentation in the following appeal instances:
  - Classification committee actions.
  - Classification Staff Representative endorsements/decisions.
  - Disciplinary rules violations.
  - Emergency appeals.
  - Involuntary psychiatric transfers to state hospitals or Department of Mental Health Facilities.
  - Staff complaints.
  - CALPIA Health or Safety complaints.
  - Any appeal wherein the appeals coordinator determines that the appellant's submittal of a CDCR Form 22 is unwarranted and/or would not contribute to the outcome of the appeals process.
- An inmate or parolee who intends to file an appeal shall not delay so doing if the written request process is not yet complete, but shall note on the CDCR Form 602 that a response is pending at the time of the appeal submission.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- If a completed CDCR Form 22 is essential for further appeal processing but not yet available to the appellant, the appeals office shall date stamp the appeal and reject it for missing documentation. However, the appellant will have met time constraints pending subsequent receipt and attachment of the pertinent CDCR Form 22.
- In the event the completed CDCR Form 22 is not received by the appellant within 30 days of the appeal being rejected by the appeals office, the inmate or parolee shall send the appeal to the appeals office and request processing without the form. The appeals office may grant an additional extension if receipt of the form appears likely or process the appeal without such documentation.

**54100.9 Appeal Procedure Abuse and Restriction**

Excessive and fraudulent filings overload the appeals system, disrupt the orderly and timely processing of appeals and thereby deprive the Department of its ability to exercise due diligence. Therefore, misuse or abuse of the appeals process may lead to appeal restriction as described in this section. The appeals coordinator shall have the discretion to take specific action when it is deemed that:

- An inmate or parolee submits more than one appeal for initial review within a fourteen (14) calendar day period, unless the inmate or parolee is submitting an emergency appeal or the appeal has been accepted due to exceptional circumstances as determined by the appeals coordinator or the third level Appeals Chief. The 14 day period shall commence on the day following the appeals office's date stamp of the appellant's last accepted appeal.
- Appeals previously cancelled pursuant 15 CCR subsection 3084.6(c)/DOM 54100.11 are repeatedly submitted by the same complainant(s).
- The appeal submission contains information the appellant knows to be false or consists of a deliberate attempt at distorting the facts.
- Appeals containing threatening, grossly derogatory, slanderous, or obscene statements and/or organic contamination is included in or makes up any part of the appeal package.
- The description of the problem and/or requested action exceeds the space provided on the Inmate/Parolee Appeals form series.
- The appeal is repeatedly filed contrary to clear and explicit previous instructions. A resubmitted rejected appeal that does not comply with appeals coordinator instructions for correction shall, in addition to not being processed, be subject to confiscation.

When an inmate or parolee submits appeals described above:

- The first appeal received shall be screened for routine processing.
- All subsequent non-emergency appeals submitted by that individual shall be screened and the appeals coordinator shall document any abuse as evidenced by the screening results.

**Warning Letter**

- If an inmate or parolee continues to submit excessive, demonstrably false, noncompliant or abusive appeals, he or she shall receive a warning letter from the appeals coordinator documenting the history and nature of appeal system abuse.
- If the abuse of process continues after the issuance of a warning letter, the appeals coordinator shall meet with the inmate or parolee in a timely manner before imposition of any restriction to provide instruction in the appropriate use of the appeals process and to rule out



**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

any unintended basis for non-compliance. If a face-to-face meeting with the appeals coordinator is not possible, an agent acting on behalf of the appeals coordinator shall conduct the meeting.

- Excessive, demonstrably false, noncomplaint or abusive appeals submitted by an inmate or parolee after the issuance of a warning letter shall be subjected to screening by the appeals coordinator to ensure they do not contain qualifying urgent or emergency issues.
  - An appeal found to contain emergency issues, as described in section 51100.20, shall be processed as an emergency appeal.
  - If no such issue is determined to be present, the appeal shall be retained by the appeals coordinator pending placement of the appellant on appeal restriction by the third level Appeals Chief.
  - The appellant shall be informed in writing why the appeal constitutes abuse of process and informed that the appeal processing has been suspended pending determination of appeal restriction status.

**Appeal Restriction**

- If the appeal abuse continues after the issuance of a warning letter and a face-to face meeting, the inmate or parolee is subject to appeal restriction.
  - The appeals coordinator shall notify the third level Appeals Chief describing the individual's abuse of the process and requesting placement of the inmate or parolee on appeal restriction.
  - The appeals coordinator shall advise the third level Appeals Chief in writing of the extent and frequency of the abuse and the corrective steps which have been taken, including issuance of a warning letter and date of face-to-face meeting(s).
  - Any appeal submitted by the inmate or parolee after abuse has been identified but prior to a decision being rendered by the third level Appeals Chief shall be processed in accordance with the "Not Processed" protocol above, including screening to ensure bona fide emergency issues are appropriately identified for processing.
- Upon determination of continued abuse and verification that a face-to-face interview and warning letter have occurred, the third level Appeals Chief shall have the discretion to authorize preparation of a notice by the Appeals Coordinator restricting the inmate or parolee to one non-emergency appeal every 30 calendar days for a period of one year effective the date of the notice.
  - At the time a determination is made regarding imposition or non-application of appeal restriction, any prior appeal retained by the appeals coordinator in accordance with the provisions set forth above shall be returned to the appellant stamped "Not Processed."
  - An imposed appeal restriction shall remain in effect for the period specified when the appellant is returned from parole or transfers to another facility. Parolees are subject to continuing restriction initiated by the institution, subject to review and ratification by the third level Appeals Chief.
  - Any subsequent violation of the appeal restriction shall result in an extension of the restriction for an additional one-year period upon approval by the third level Appeals Chief.
- Upon the decision of the third level Appeals Chief to impose an appeal restriction, any appeal returned to the appellant marked "not processed" may only be later resubmitted by the inmate

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

or parolee in accordance with the terms of his or her appeal restriction and in conformance with the timeframes and practices set forth in this article (The original submittal date of the appeal may serve, under exceptional circumstances, to satisfy filing time requirement).

- Upon a decision by the third level Appeals Chief to **not** place the inmate or parolee on appeal restriction, any retained appeal returned to the appellant and marked “not processed” may be resubmitted by the appellant in accordance with the standard submittal requirements set forth in this article except that the appellant’s original submittal date of the appeal may serve to satisfy filing time requirements.

**54100.10 Screening and Managing Appeals**

The appeals coordinator or a delegated staff member under the direct oversight of the appeals coordinator shall be responsible for ensuring that each appeal has been screened and categorized in compliance with this article and shall coordinate the processing and logging of appeals. These responsibilities should not be exercised in any manner that would place unreasonable restraints on the inmate’s or parolee’s right to appeal.

- When it is determined that an appeal will not be accepted an Inmate/Parolee Screening Form, CDC Form 695, preprinted or automated version, shall be completed, attached to the CDCR Form 602 and returned to the inmate or parolee.
- Appeals received describing staff behavior or activity in violation of law, regulation, policy or procedure or appearing contrary to an ethical or professional standard that could be considered misconduct within the 15 CCR §3084(g)/DOM 54100.25 definition, whether specifically alleged or not, shall be processed pursuant to the Staff Complaint provisions of this article to determine appropriate disposition.
- The appeals coordinator shall use the automated Inmate Appeals Tracking System (IATS) or equivalent system approved by the third level Appeals Chief which designates a log number for each appeal accepted.
- The IATS shall contain the assigned appeal log number, name and number of the inmate/parolee appellant(s), date received, level of review, name of person designated reviewer, due date, date of written notification to inmate/parolee on late response, date completed at each level of review and decision reached.
- Accepted appeals shall be assigned for response within five working days of receipt from the inmate or parolee.
- The receipt date shall be stamped each time the appeal is received by the appeals coordinator and recorded in IATS (or equivalent).
- The IATS will be updated on an ongoing basis so as to establish a complete and official departmental record.
- Rejected/cancelled appeals shall be tabulated for reporting purposes.

**54100.11 Reasons for Rejection, Cancellation and Withdrawal of Appeals**

Appeals may be rejected, cancelled or withdrawn:

- A **rejected** appeal is one that the appeals coordinator or third level Appeals Chief has returned to the appellant with instructions to correct a deficiency. Clear and sufficient instructions regarding further actions the appellant must take to qualify the appeal for processing shall be provided.
- A **cancelled** appeal is one that the appeals coordinator or third level Appeals Chief has returned to the appellant without response to the specific appeal issue and is considered

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

closed with the appellant having not exhausted administrative remedies.

- An inmate or parolee may **withdraw** an appeal by requesting to have the processing stopped at any point up to receiving a signed response. It shall be at the discretion of the appeals coordinator or third level Appeals Chief whether an appellant's request to withdraw an appeal shall be accepted.

Erroneous acceptance of an appeal at a lower level does not preclude the next level (inclusive of the third level of review) from taking appropriate action, including rejection or cancellation of the appeal.

Under exceptional circumstances any appeal may be accepted if the appeals coordinator or third level Appeals Chief concludes that the appeal should be subject to further review. Such a conclusion shall be reached on the basis of compelling evidence or receipt of new information such as documentation from health care staff that the inmate or parolee was medically or mentally incapacitated and unable to file. Likewise, failure to conform to or to comply with any submission requirement (such as mandatory use of ink) shall be excused if the appellant is unable to comply due to reasons beyond their control at the time the appeal is written.

**Rejection**

The appeals coordinator may reject an appeal for any of the following reasons, which include but are not limited to:

- The appeal concerns an anticipated action or decision. This includes the premature filing of an appeal without first bringing an issue to the attention of staff so that an action can be taken or a decision rendered.
- The appellant has failed to demonstrate a material adverse effect on his or her welfare (see 15 CCR §3084(c)/DOM 54100.4).
- The allowable number of appeals filed in a 14 calendar day period has been exceeded contrary to 15 CCR §3084.1(f)/DOM 54100.9.
- The appeal makes a general allegation, but fails to state the facts or identify an act or decision consistent with the allegation. "General" allegation means an allegation that lacks the specificity or factual evidence necessary to support the statement in question.
- The appeal contains threatening, obscene, demeaning, or abusive language and/or organic contamination is included in or makes up any part of the appeal package. Appeals submitted with hazardous or toxic material that present a threat to the safety and security of staff, inmates, or the institution may subject the appellant to disciplinary action and/or criminal charges commensurate with the specific act.
- The inmate or parolee has not submitted his or her appeal on the departmentally approved forms.
- Contrary to printed form instructions, the inmate or parolee has submitted more than one CDCR Form 602 or CDCR Form 602-A. The appeals coordinator has the discretion to authorize one or more additional pages in an acceptable format upon compelling evidence that the appellant cannot coherently describe the issue or the relevant facts in the allotted space.
- Requirements respecting original copy, font size, allotted space, numbers of pages, dividers and tabs etc., set forth in the "appeal preparation" section of this article have not been met or

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

the appeal documentation is defaced. For example, the inmate or parolee has not submitted his/her appeal printed legibly in ink or typed on the lines provided on the appeal forms no smaller than a 12-point font or failed to submit or has defaced original copy with drawings or obscenities. Attaching dividers or tabs to the appeal forms and/or supporting documents is also unacceptable because it impedes appeal processing.

- The appeal is incomplete with regard to required signatures, dates or other identifying details or use of required attachments. For example, the inmate or parolee has not provided a signature, date, or other identifying information in the designated areas provided on the appeal form or, as 15 CCR §3084.3/DOM 54100.8 requires, the supporting documents necessary for the clarification and/or resolution of the appeal issue are missing.
- The appeal is incomprehensible and/or the issues are obscured by pointless verbiage or voluminous unrelated documentation such that the reviewer cannot be reasonably expected to identify the issue under appeal.
  - Exercise caution not to screen out appeals submitted by inmates or parolees who have difficulty in expressing themselves in writing or whose primary language is not English.
  - When it is determined the inmate or parolee is having such difficulty, a personal interview with the appellant shall be directed by the coordinator to assist them in filing the appeal.
  - Refer to DOM 54100.8 as necessary for clarification of the document attachment requirements.
- The problem, issue or event constituting the basis for grievance cannot be understood as submitted and the reviewer cannot reasonably identify the matter in question and/or the basis for appeal.
- The appeal involves multiple issues that do not derive from a single event, or are not directly related and which cannot be reasonably addressed in a single response due to this fact.
- Unrelated issues have been combined on a single appeal form for the purpose of circumventing filing process requirements.
- The inmate or parolee has submitted the appeal for processing at an inappropriate level; bypassing required lower level(s) of review, e.g., submitting an appeal at the third level prior to lower level review.
- The appeal issue or complaint emphasis has been changed at some point in the process to the extent that the issue is entirely new, and the required lower levels of review and assessment have thereby been circumvented. This includes instances where the issue and/or requested action has been changed from that described originally in Parts A and B of the CDCR Form 602.

When rejecting an appeal, a CDC Form 695, Inmate/Parolee Appeals Screening Form, shall be completed and sent to the appellant noting the reason for the rejection.

- The CDC Form 695 shall also provide clear instruction regarding further action(s) the appellant must take to qualify the appeal for acceptance.
- If the appellant is identified as requiring assistance in filing the appeal that assistance shall be provided before processing the CDC Form 695.

An appeal that is rejected may later be accepted if the reason(s) noted for rejection are corrected and the appeal is re-submitted within 30 calendar days from the date of rejection. As the appellant has the ability to resubmit a rejected appeal, appeals of a rejected appeal will not be accepted.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

**Cancellation**

The appeals coordinator may cancel an appeal for any of the following reasons:

- The action or decision being appealed is not within the jurisdiction of the Department.
- The appeal duplicates an inmate or parolee's previous appeal upon which a decision has been rendered or is pending.
- The inmate or parolee continues to submit a rejected appeal while disregarding appeal staff's previous instructions to correct the appeal, including failure to submit necessary supporting documents, unless the inmate or parolee provides in Part B of the CDCR Form 602 a reasonable explanation of why the correction was not made or documents are not available.
- Time limits for submitting or correcting and returning a rejected appeal are exceeded even though the appellant had the opportunity to file within these prescribed time constraints.
  - In determining whether the time limit has been exceeded, the appeals coordinator shall consider whether the issue being appealed occurred on a specific date or is ongoing.
  - If the issue is ongoing—such as, but not limited to continuing lockdowns, retention in segregated housing, or an ongoing program closure—the inmate/parolee may appeal any time during the duration of the event. The inmate/parolee is precluded from filing another appeal on the same issue unless a change in circumstances creates a new issue.
- The appeal is filed on behalf of another inmate or parolee.
- The issue is subject to a review independent of the appeal process such as a Departmental Review Board (DRB) decision which is not subject to appeal and concludes the inmate or parolee's administrative remedies on classification issues pursuant to the provisions of 15 CCR §3376.1/DOM 62010.10.
- The appellant is deceased before the timeframes for responding to an appeal have expired and the appeal is not a group appeal.
- The appellant refuses to be interviewed or cooperate with the reviewer.
  - The appellant's refusal to be interviewed or to cooperate with the reviewer shall be clearly articulated in the cancellation notice and the appellant given an opportunity to explain the reason for the failure or refusal.
  - If the appellant provides sufficient evidence to establish that the interviewer has a bias regarding the issue under appeal, the appeals coordinator shall assign another interviewer.
- The presented appeal is on behalf of a private citizen.
- Failure to correct and return a rejected appeal within 30 calendar days of rejection.
- The issue appealed has been fully resolved at a previous level or as determined by the appeal coordinator or the third level Appeals Chief. In such cases, the appeals coordinator's or third level Appeals Chief's rationale for concluding or determining that the appeals issue has been fully resolved shall be provided.
- All members of a group appeal have been released, transferred or are no longer subject to the conditions giving rise to the appeal.

Once cancelled, the appeal may not be resubmitted unless there is a determination by the

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

appeals coordinator or third level Appeals Chief (when cancellation was made at the third level) that the cancellation was made in error or new information is received which causes the appeals coordinator or Chief to conclude that the appeal should be subject to further review.

- The appeals coordinator or the Chief has the discretion to waive a cancellation requirement if, in their opinion, such application would deny review of an issue that could result in extraordinary and serious irreparable harm or loss.
- When an appeal is cancelled, the inmate or parolee may file a separate appeal if they believe the screening policy or the application of the screening policy by the appeals coordinator was inappropriate. The new appeal shall include the original CDCR Form 602 as an attachment to facilitate the review of the original cancellation decision.
- The new appeal shall address only the cancellation decision, not the issue(s) raised in the original appeal.

Upon determination that the original appeal was inappropriately cancelled, the appellant will be allowed to resubmit the original appeal for processing in accordance with the filing requirements of this article.

**Withdrawal**

An inmate or parolee may withdraw an appeal by completing the appropriate section of the CDCR Form 602 stating his or her reasons for the withdrawal accompanied by a dated signature. If a withdrawal is conditioned upon an express promise of relief noted in writing at the time of withdrawal and the promised relief is not provided, the matter may be re-submitted within 30 calendar days of the failure to grant the relief promised.

- The withdrawal of an appeal does not preclude further administrative action by the Department regarding the issue under appeal.
- A withdrawn staff complaint shall be returned to the hiring authority for determination of further administrative action.
- Group appeals shall not be withdrawn at the request of the primary appellant unless all of the signatories agree to withdraw the appeal.

**54100.12 Referral for Review**

After logging an appeal, the appeals coordinator shall assign the appeal for first or second level review as appropriate. Time limits for reviewing appeals shall commence the day following the date of receipt of the appeal form by the appeals office. An appeal response shall not be assigned to any staff member who participated in the action, decision, determination or review being appealed. Another appropriate person at the same or higher level shall be assigned this responsibility instead.

This does not preclude the following:

- The use of staff to research the appeal issue(s) who are at a lower level than the staff whose actions or decisions are being appealed.
- The involvement of staff who may have participated in the event or decision being appealed, but whose involvement with the appeal response is necessary to determine the facts or provide an administrative remedy, as long as the staff person is not the reviewing authority for the appeal and/or their involvement in the process would not reasonably be expected to compromise the integrity or outcome of the process.

Staff at an Associate Warden or Parole Administrator level shall review and sign off on first level

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

decisions, and the hiring authority (Warden, Regional Parole Administrator, etc.) or designee shall review and sign off second level decisions.

**54100.13 Levels of Review**

Because the appeal process provides for a systematic review of inmate and parolee grievances and is intended to afford a remedy at each level of review, administrative remedies shall not be considered exhausted until each required level of review has been completed. Cancellation or rejection decisions also do not exhaust the administrative remedies available. As used in this article, “reviewer” means the individual with signature authority for the approval or disapproval of an appeal response completed or drafted at any level.

The appeal process shall consist of three levels of review; the first and second levels are normally reviewed at the institution or parole region, and the third level review occurs at the Department Secretary’s level. Third level review shall consist of an evaluation of decisions relative to an appeal including all supporting documentation and modification orders (see DOM 54100.17) issued at the first, second or third level. For each subsequent level of review, the inmate or parolee shall submit the original CDCR Form 602 (and, as necessary, the Inmate/Parolee Appeal Form Attachment, CDCR Form 602-A), with supporting material and explanation stating, in detail, the reason(s) for his or her dissatisfaction with or disagreement with the reviewer’s response.

**54100.13.1 First Level**

All appeals shall be initially filed and screened at the first level unless the first level is otherwise waived. In the institution, the appeals coordinator shall determine the nature of the problem and assign the appeal to the appropriate division head. In the parole division, the regional appeals coordinator shall determine the nature of the problem and assign the appeal to the appropriate administrator. The appeal issue shall be reviewed, the appellant interviewed (see DOM 54100.14) and a response prepared for the division head’s review and signed approval. If the appeal is denied at first level, it then may be appealed at the second level.

**First Level Bypass**

The appeals coordinator may bypass the first level for appeals of:

- A policy, procedure or practice implemented by the institution head.
- A policy, procedure, practice or rule implemented by the Department.
- An issue that cannot be resolved at the division head’s level.
- Serious disciplinary infractions.

**54100.13.2 Second Level**

Second level is for review of appeals denied at the first level or for which first level review has been bypassed. The second level shall be conducted by the hiring authority, not to be delegated below the level of Chief Deputy Warden, Deputy Regional Parole Administrator or the equivalent. If the appeal concerns a department-wide policy, rule, practice or procedure, and the first level review therefore bypassed, the second level shall include an interview with the inmate or parolee. The second level must be completed except for Psychiatric Transfer appeals (see DOM 54100.22), or when appeals are filed directly with the Third Level (such as a complaint about Third Level appeals staff or appeals of a cancellation decision made by the Third Level).

**54100.13.3 Third Level**

The third level constitutes the Department Secretary’s decision on an appeal, and shall be conducted by a designated representative of the Secretary under the supervision of the third level Appeals Chief. The third level of review exhausts administrative remedies; however, this does

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

not preclude amending a finding previously made at the third level. Administrative remedies shall not be considered exhausted relative to any new issue, information or person later named by the appellant that was not included in the originally submitted CDCR Form 602 and addressed through all required levels of administrative review (up to and including the third level, unless the third level of review is waived by regulation).

**54100.14 Interviews**

In order to provide the appellant the opportunity to clarify his or her issue(s) and the reviewer to ask questions, at least one face-to-face interview with the inmate or parolee shall be conducted at the first level of review, unless:

- The inmate or parolee waives the interview by initialing the appropriate box on the CDCR Form 602. An appellant's waiver of the interview shall not preclude staff from conducting an interview in the event of a staff determination that an interview is necessary.
- The first level review is bypassed, in which case a personal interview will be conducted at the second level unless waived by the inmate on the CDCR Form 602.
- The appeal is a request for a Computation Review Hearing in which case the initial interview shall occur at the second level of review.
- The reviewer has decided to grant the appeal in its entirety.
- The appellant is not present at the institution or parole region where the appeal was filed.
  - In such case, a telephone interview with the appellant shall meet the requirement of a personal interview.
  - The response must note that the interview was conducted by telephone, explain the extraordinary circumstances that required it, and state why a face-to-face interview was not possible under the circumstances described.
  - If the appellant is not available for a telephone interview, the reviewer may request that an employee in that jurisdiction where the appellant is located conduct the interview on behalf of the appeal coordinator and provide a report.
  - If the appeal concerns a disciplinary action and the appellant has transferred, the telephone interview may be waived if the appeals coordinator determines an interview would not provide additional facts.

Regardless of any inmate waiver, if additional clarification is needed, interviews may be conducted at the first or any subsequent level of review when the appeals examiner determines that the issue under appeal requires further clarification.

- In addition, one or more of the participating inmates/parolees shall be interviewed as necessary to clarify issues when group or multiple appeals are processed.
- Interviews may be conducted at the third level as necessary to obtain information not elicited at lower levels or to clarify the appeal issue(s), when the first and second level has been bypassed.

**54100.15 Written Response**

At each level not bypassed, the original appeal shall be returned to the appellant with a written response providing the reason(s) for the decision. Responses shall be provided in letter or memo format and attached to the CDCR Form 602 submitted by the appellant. Each written response shall contain the appellant's name, departmental identification number, the appeal log number, level of review, and the name of the reviewer and interviewer. The written response shall accurately describe the matter under appeal and fully address the relief requested. Responses



**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

shall be objective and professional, and shall provide a reasonable finding in light of the facts and arguments presented. If the decision is a partial grant of the appellant's requested action(s), the response shall clearly state which action(s) or relief has been granted, granted in part, or denied, and shall also state the action taken.

**54100.15.1 Appeal Response to Offenders Released on Non-Revocable Parole (NRP)**

An appeal response intended for an offender released on NRP, including follow-up and final responses, shall be sent to the last known address of record on file provided upon release for the purpose of formal post incarceration contact. If contact is unsuccessful or if the parolee does not provide an address (as in the case of self parole), the appeal will be answered without an interview as follows:

- If the issues cannot be addressed without an interview to clarify the issues(s) and/or the action(s) requested, the appeal shall be denied on the basis that the appellant is unavailable for interview. The appeal will be processed and the final appeal response shall note the effort made by the appeals coordinator to contact the appellant. The final response will be submitted to the appellant's central file.
- If the issues warrant a grant or a partial grant absent an interview, the appeal will be answered without an interview, noting the issues and requested action(s) that are granted or partially granted. A modification order will be issued to complete the actions granted. The final appeal response will be submitted to the appellant's central file.

**54100.16 Fixed Time Limits**

In order to afford a timely review, the appeal shall be filed within 30 calendar days of the occurrence of the event or decision being appealed or of the inmate or parolee's knowledge of the action or decision being appealed, or of receiving an unsatisfactory response to an appeal filed at the previous level, unless otherwise specified in this article. The acceptance, under exceptional circumstances, of an appeal beyond the 30 day policy is at the discretion of the appeals coordinator or third level Appeals Chief. The basis of this discretion shall be compelling evidence or receipt of new information, such as documentation from health care staff that the inmate or parolee was medically incapacitated and unable to file, supporting the conclusion that the appeal should be subject to further review.

All appeals shall be responded to and returned within the following time limits:

- First level responses shall be returned within 30 working days.
- Second level responses shall be returned within 30 working days.
- Third level responses shall be returned within 60 working days.

With regard to time frames for response processing, "day one" commences the next working day following receipt of the appeals form by the appeals office. Exceptions to the above time limits may be authorized by the appeals coordinator in the event of:

- Unavailability of the inmate/parolee, or involved witnesses.
- Complexity of the decision, action, or policy requiring additional research by responding staff.
- Necessary involvement of other agencies or jurisdictions.
- Reopening of a lower level decision at the direction of the third level.
- The normal time requirements for review and action on appeals has been suspended pursuant to a state of emergency as defined by 15 CCR §3383(c).

Except for the third level, if an exceptional delay prevents completion of the review within the specified time limits, the inmate or parolee shall be informed, in writing, of the reasons for the

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

delay and estimated completion date.

**54100.17 Modification Orders**

A modification order is a formal instruction by the institution, parole region or third level Appeals Chief directing a previous decision to be modified or reconsidered. Modification orders issued by the institution or the parole region at the first and second level shall be completed within 60 calendar days. Reasonable documented proof of completion of the modification order shall accompany the completed order, or a statement shall be added by the responder clarifying the action taken and why documentation is not available.

- If, due to extraordinary circumstances, the modification order cannot be completed within these time limits, staff responsible for compliance shall notify the appeals coordinator of the reason for delay and provide a projected date of completion. The appeals coordinator shall use this information to assign a new due date, and then enter this information in the tracking system.
- Staff responsible for complying with the modification order shall advise the appeals coordinator every 30 calendar days of the reason for delay and provide an updated projected completion date until the modification order is completed.
- All time constraints for an appellant to submit an appeal to the next level are considered postponed up to 120 days until completion of a previous level modification order.
- However, if the modification order is not completed after 120 calendar days of the initial issuance date, the appellant may submit the appeal to the next level for administrative review within 30 calendar days.

Modification orders issued at the third level shall be subject to the same time constraints as local modification orders, i.e. 60 calendar days.

- If it is not possible to comply within this timeframe, the institution or parole region shall notify the third level Appeals Chief in writing of the reason for the delay and provide a projected completion date.
- Updates on any delay shall be provided to the third level Appeals Chief every 30 calendar days.

Appellants shall be advised by the appeals coordinator of the reason for modification order delay and the anticipated date of completion.

- This process shall occur every 30 calendar days until the modification order is completed.
- Any third level appeal submission must occur within 30 calendar days of receiving a modified second level appeal response.

Upon completion of a third level modification order, the institution/parolee region shall provide a proof of compliance memorandum to the third level Appeals Chief containing evidence of compliance with the name, signature and title of the person fulfilling the modification order. As necessary, a statement shall be added by the responder, clarifying the action taken.

If the appellant transfers prior to the completion of the modification order, the originally assigned institution or parole region shall retain responsibility for completion of the modification order.

In cases where a modification order is issued on an emergency appeal, the order shall specify the timeframe for the completion of the action granted. The appeals coordinator (if granted at the second level), and the third level Appeals Chief or designee (if granted at the third level), shall notify the hiring authority expeditiously of the emergency timeframe for completion of the granted action and confirm that notification was received.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

**54100.18 Appeal Processing Responsibilities Involving Two Departmental Institutions/Regions**

When an inmate/parolee files an appeal at one institution or parole region, and is then transferred prior to the appeal response being completed, the sending institution/parole region shall continue to complete the response.

The receiving institution/parole region shall provide assistance as needed by the sending institution/parole region, including but not limited to coordinating and/or interviewing the appellant, to facilitate the timely completion of the appeal response.

- When an inmate/parolee has been transferred and files an appeal at the receiving institution or parole region of an action taken by the sending institution/parole region, the receiving institution or parole region shall date stamp the appeal and forward it to the sending institution/parole region for processing.
- When an inmate has been transferred and files an appeal concerning property loss or damage, the provisions of DOM 54100.23.2 shall apply.
- When an inmate has been transferred and is appealing a disciplinary action, the first level and, if applicable second level review, shall be conducted by the staff of the institution where the infraction took place. Interview(s) may be waived upon appeals coordinator determination that obtaining additional information will not affect the outcome of the appeal.

Interviews may be conducted by telephone pursuant to procedures set forth in DOM 54100.14.

Appeals on actions taken at contract facilities shall be handled by the institution or parole region responsible for the management of the facility, regardless of an emergency placement in an institution for security purposes.

Time limits on appeals forwarded to sending institutions/parole regions for response shall not commence until received by the responding institution/parole region.

**54100.19 Emergency Appeals**

An emergency appeal is defined as an urgent matter wherein disposition according to the regular time limits would subject the inmate or parolee to a substantial risk of personal injury, or cause other serious and irreparable harm to the inmate or parolee. Emergency appeals should not, however, be used by inmates or parolees as a substitute for verbally or otherwise informing staff of an emergency situation requiring immediate response.

Examples include but are not limited to:

- Threat of death or injury due to enemies or other placement concerns.
- Serious or imminent threat to health or safety.

The inmate/parolee shall clearly substantiate in writing the need for emergency handling of the appeal and send it directly to the appeals coordinator, who shall determine whether an emergency exists and so inform the inmate/parolee. The appellant shall also be notified in the event that the appeal does not satisfy the definition of an emergency, meets regular processing criteria, or is rejected for the specific reason(s) cited.

- If emergency processing is warranted, the first level shall be bypassed and the second level review shall be completed within five working days.
- If dissatisfied with the second level response, the appellant may resubmit to the appeals coordinator who shall electronically transmit it to, and confirm receipt by, the third level Appeals Chief for third level review.
- The third level review shall also be completed within five working days of receipt.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

**54100.20 Appeal of Disciplinary Actions**

A disciplinary action is not considered complete until all processing requirements including the hearing, postponement and any re-hearing are completed as evidenced by the signature of the Chief Disciplinary Officer (CDO).

- A second level review shall constitute the Department's final action of appeals of disciplinary actions of a CDC Form 115, Rules Violation Report (RVR) classified as "administrative" (15 CCR §3314) and of Custodial Counseling Chronos (CDC Form 128-A) documenting minor infractions, and shall exhaust administrative remedies on these matters.
- The date of the final RVR copy issued to the appellant shall serve to establish time limits for filing an appeal of the RVR, not the date of the disciplinary hearing.
- Inmates who wish to exhaust their administrative remedies for serious disciplinary issues must appeal through the third level of review.

The appeal review, at the first and second levels, shall not be delegated to a rank lower than the person who audited the disciplinary under appeal.

Regardless of what issue an appellant may raise concerning his or her RVR, the reviewer shall determine whether all due process and procedural requirements were met. Each disciplinary appeal submitted by an inmate or parolee shall be reviewed on the basis of conformance with the provisions of the Penal Code, the California Code of Regulations Title 15, Division 3 Rules and Regulations of Adult Institutions, Programs and Parole and Chapter 5 of the Operations Manual — Custody and Security Operations.

When the reviewer of a disciplinary appeal determines that there was an error in either the due process or procedural requirements, or determines that the disciplinary finding was not supported by a preponderance of evidence presented at the hearing, one of the following remedies shall be considered:

- The original disposition shall be vacated and the charges dismissed.
- The RVR shall be modified.
- Vacating the original disposition accompanied by a reissuance and rehearing of the charges.

When a disciplinary disposition is vacated or modified by appeal, the second level responder shall either direct that the RVR be removed from the inmate's C-File pursuant to 15 CCR §3326, or order that the changes as mandated by the appeal decision be made with appropriate annotations entered on file documents.

**54100.20.1 Dismissal of the Charges**

The original disciplinary disposition shall be vacated and the charges dismissed if the reviewer determines that any of the following circumstances apply or are evident:

- The finding was based on information that was later determined to be false or unsubstantiated and the remaining evidence is not sufficient to support the charge.
- There has been a significant lapse of time which makes it improbable, if not impossible, for the accused to present an adequate defense.
- Witnesses of significant import, either staff or inmates, are no longer available and their absence prevents the accused from presenting an adequate defense.

**54100.20.2 Modification of the RVR or of the Disposition**

The RVR normally shall be modified when all due process was afforded the appellant and errors identified during the review process are clearly minor or procedurally insignificant. Reasons for modifying the RVR include, but are not limited to:

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- Clerical errors and typographical mistakes that have no bearing on the charge and do not inhibit the ability of the accused to understand the charge and present an effective defense
- Adding a notation to the RVR disposition to satisfy fundamental procedural requirements, including when the hearing failed to document the disposition of any contraband item or substance related to the RVR.

The disciplinary disposition shall normally be modified when all due process was afforded the appellant and the evidence presented supports an equal classification but different offense, a lesser included offense, the imposition of a mandated sanction or the removal of a disposition or sanction that was improperly imposed. When the classification of the RVR and/or the disposition is not consistent with the evidence presented for which the appellant was found guilty, the following remedies shall be considered:

- If the RVR is classified higher than required for the specific act, the division shall be corrected and the assessed credit forfeiture shall be modified to within the range allowed for the corrected division.
- If the RVR is classified correctly, but the assessed credit forfeiture was greater than that allowed for that division, the assessed credit forfeiture shall be reduced to within the range allowed for that division.
- If the RVR is correctly classified, but the assessed credit forfeiture was less than that allowed for that division, the assessed credit forfeiture shall be reduced to zero.
- If the RVR is classified lower than that required for the charged offense, the division shall be corrected and the assessed credit forfeiture shall be reduced to zero.
- If the hearing official imposed a disposition or sanction (other than credit loss) that was not authorized by regulation, the unauthorized disposition and/or sanction shall be rescinded.
- If the hearing official imposed the incorrect level of a disposition or sanction (other than credit loss) than that mandated by regulation, the disposition and/or sanction shall be corrected. Such impositions shall be calculated from the date of the RVR hearing or when they should have been imposed pursuant to law or regulation.

**54100.20.3 Rehearing of the Charges**

The original disposition shall be vacated and a new hearing ordered if the reviewer determines that any of the following circumstances apply or are evident:

- The accused was not given copies of required documents within specified time limits before the hearing and did not waive the time limits.
- The appellant requested but was not allowed to review a videotape or photographic evidence at least 24 hours prior to the hearing (or within 24 hours of the hearing if he or she waived the 24 hour period).
- The charge was based upon confidential information and the accused was not given a copy of the CDC Form 1030, Confidential Information Disclosure.
- Confidential information was used and the disciplinary finding did not address the reliability of the source and the validity of the information.
- The disciplinary hearing officer failed to articulate the reasons for finding the accused guilty, the evidence relied upon to make the disposition, or failed to note the reasons why the reporting employee or witness was not present or the reason(s) why time constraints were not met.
- The accused was inappropriately denied witnesses, or denied witness statements or

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

testimony which would have contributed to the accused's defense.

- The senior hearing officer and the accused stipulated to what the witness testimony would be and waived the requested witness' presence at the the hearing, but the stipulation was not documented in the hearing portion of the RVR.
- Failure to obtain and document the appellant's waiver of the reporting employee's presence at the disciplinary hearing, when the appellant previously requested the reporting employee's attendance.
- The reasons why the hearing was postponed beyond time constraints or the reasons for denying the appellant's written request for postponement have not been provided, or if provided, are unsound and unsupportable.
- Failure to document the justification, consistent with regulatory expectations, of why the hearing was suspended.
- The accused was not allowed to speak or present documentation in their own defense or the hearing officer failed to articulate the defendant's statement made at the time of the hearing in the body of the RVR.
- The accused was not assigned a staff assistant or language interpreter if required.
- An investigative employee (IE) was not assigned if required or the IE did not properly carry out their duties, and it appears that such an investigation was needed.
- A staff assistant did not properly perform his or her required duties or did not meet with the appellant at least 24 hours prior to the RVR hearing.
- The hearing official engaged in activities that would lead to a predetermined belief on their part with respect to the appellant's guilt or innocence relative to the matter in question.

**54100.20.3.1 Holding the Rehearing**

A decision to order the rehearing of disciplinary charge functions to void the disposition of the RVR being appealed. When a disciplinary charge is ordered reheard, a new RVR shall be written and processed.

- The disciplinary time constraints for holding a rehearing shall begin on the date the CDO orders a rehearing and shall conform to those for original processing, except when a inmate/parolee is being returned to a facility for a disciplinary rehearing, the time constraints shall begin upon the inmate/parolee's return to that facility.
- The circumstances section of the RVR shall indicate that the RVR is a re-issue resulting from a CDO's order to correct a noted deficiency. The statement shall include the date of the order.
- When a disciplinary action is ordered reissued and reheard, the original disciplinary disposition shall be vacated and no longer have effect. Any appeal of the original disciplinary disposition shall be cancelled unless there are other issues that are not resolved by the dismissal and rehearing of the original charge. If the appeal contains other issues not directly arising from the disciplinary action, those issues shall be addressed while noting that the disciplinary issues will not be addressed.

**54100.20.3.2 Time Limits**

Time limits for holding a rehearing shall conform to those specified in 15 CCR 3320 for processing the original charge.

**54100.20.3.3 Notifications**

If the inmate remains at the institution where the behavior causing the original charge occurred,

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

the appeals coordinator shall ensure that responsible staff are notified of the rehearing order and reasons for the rehearing. The notification shall be in writing and shall be conveyed to staff responsible for conducting the rehearing.

**54100.20.3.4 Classification and Parole Representative (C&PR) Collaboration**

If the inmate has been transferred, and the decision is to have him or her returned for the hearing, the appeals coordinator shall be responsible for notifying the institutional C&PR of said decision.

- The institutional C&PR shall arrange with the other location, where the inmate resides, for the inmate's case to be reviewed by the CSR for endorsement and prompt return to afford staff the opportunity of a timely hearing of the RVR.
- Time constraints for conducting a rehearing under these circumstances shall not begin until the inmate has been returned to the institution where the hearing will be conducted.

If the inmate has been transferred and the decision is made not to have him or her returned for the hearing, the C&PR working with the facility that issued the disciplinary charges shall arrange for all necessary documents to be sent to the receiving institution to facilitate the disciplinary hearing within time constraints and one of the following shall occur:

- Staff at the receiving institution shall hear the disciplinary report and afford the appellant access to witnesses via a speaker phone or its equivalent or,
- Staff from the institution that issued the disciplinary report shall travel to the receiving institution and conduct the hearing providing for witnesses via speaker phone or its equivalent.

**54100.21 Transfer Appeals**

A decision for transfer to another institution or facility may be appealed by the affected inmate after endorsement by the Classification Staff Representative (CSR). The filing of an appeal by the inmate shall not routinely stay or delay the pending transfer except in extraordinary circumstances and at the discretion of the Warden or designee.

- For appeals of regular transfer endorsements:
  - The first level review is waived.
  - If the appeal is granted at the second level, the appellant's case shall be presented to a second CSR for reconsideration.
  - If the second CSR disagrees with the institution's decision, the institution head may submit the case to the Department Review Board (DRB) for final decision.
  - If the appeal is denied at the second level, or the institution head does not refer the case to the DRB, the inmate/parolee may appeal to the third level.
- For appeals of reception center transfers:
- First level review shall be conducted by reception center staff at the level of correctional administrator.
  - If the appeal is granted, the inmate/parolee may be retained at the reception center until the case is presented to a second CSR only if the proposed transfer poses a threat to the health or safety of the appellant.
  - If the second CSR disagrees with the first level appeal decision, the inmate/parolee may resubmit the appeal for second level review.
  - Second level review shall be conducted by the institution head, who may retain the inmate/parolee at the reception center as a second level review action and refer the appeal to the DRB for resolution. The DRB's decision shall constitute final review.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

**54100.22 Psychiatric Transfer Appeals**

An inmate who is involuntary transferred to the California Medical Facility (CMF)—Department of Mental Health, Atascadero State Hospital, Patton State Hospital, Coalinga State Hospital or Salinas Valley Psychiatric Program for psychiatric reasons may appeal that action, utilizing a CDCR Form 602 directly to the third level within 30 days of the hearing decision on the need for involuntary transfer. A copy of the hearing decision shall be attached to the appeal form, but the absence of such documentation shall not be cause for rejection of the appeal.

**54100.23 Lost or Damaged Property**

When an inmate or parolee believes that the state is responsible for the loss of or damage to his or her personal property, he or she shall first attempt to resolve the matter with either the departmental employee on duty at the time and place that the damage or loss was first realized or identified or alternatively, the employee best able to address the alleged loss or damage.

- To facilitate resolution, copies of any relevant documentation concerning the lost or damaged property should be presented.
- In the event of an apparent loss or damage during transfer, the complainant shall first contact staff at the receiving institution to establish whether the property did or did not arrive, and in what condition.
- If this attempt at resolution of the problem is unsuccessful, the inmate/parolee may file an appeal on CDCR Form 602.

**54100.23.1 Appeals of Lost or Damaged Property**

All property loss or damage arising from the same departmental event or action shall be included by the appellant in one appeal form. Such appeals are subject to rejection if relevant documentation is not attached, including a signed copy of the CDC Form 1083, Inmate Property Inventory.

Staff assigned to respond to appeals alleging property loss or damage shall conduct a thorough examination of all documents submitted and any other pertinent information that will assist in resolving the property claim including, but not limited to:

- A thorough search for the lost property.
- Inspection and assessment of the damaged property.
- Interviews, especially when documentation identified staff who handled the property.
- Review of departmental records, including but not limited to, property receipts, property transfer receipts, property control cards and property inventory sheets.

Any decision denying a property claim shall inform the inmate/parolee of the right to file a claim directly with the Victim Compensation and Government Claims Board (VCGCB) (formerly Board of Control) and shall provide instructions for such filing. An inmate/parolee who wishes to file a claim with the VCGCB shall adhere to the timeframes governing these claims which may be more restrictive than the CDCR appeal process and may require the appellant to file a claim prior to receiving a final decision on his or her CDCR appeal.

First and second level appeals concerning lost or damaged property shall be processed at the institution/parole region where the loss or damage occurred. All provisions of this article concerning property loss or damage apply to inmates housed in a contract facility, including inmates transferred to or from a contract facility.

**54100.23.2 Inmate Appeals of Lost or Damage Property During Transfer**

Appeals alleging property loss or damage following a transfer, regardless of where the loss or



**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

damage occurred, shall be submitted to the appeals coordinator at the receiving institution. The receiving institution appeals coordinator shall:

- Date stamp the appeal.
- Conduct an initial review of the appeal for conformance with appeal processing requirements, including time constraints, missing signatures and supporting documents.
- Review the appeal and determine which institution shall respond to the appeal in accordance with the following:
  - If able to determine that the property loss or damage occurred some time after the property arrived at the receiving institution, or if records indicate that the property was issued to the appellant at the receiving institution, the receiving institution appeals coordinator shall process the appeal.
  - If unable to determine where the loss or damage occurred, or information suggests that the loss or damage occurred prior to arrival at the receiving institution, the appeal shall be forwarded to the sending institution for review. Upon receipt, the sending institution appeals coordinator shall date stamp and process the appeal.

The transportation unit or any facility that housed the appellant or the property in question in transit during the transfer shall assist and provide any information necessary for a thorough review of the property claim. The first level response shall instruct the appellant, if dissatisfied, to resubmit the appeal to the receiving institution for a second level review. Exceptions, where the sending institution would be expected to complete the second level response, include but are not limited to:

- The appellant was not in possession of the property at the time of transfer.
- The property was not sent with the appellant by the sending institution.
- The property loss or damage occurred at the sending institution.

**54100.23.3 Parolee Appeals of Lost or Damaged Property During Release To Parole**

When a paroled inmate alleges property loss or damage, the parolee shall submit the appeal to the institution where he or she last relinquished the property, unless the parolee has documentation to indicate the property was in the possession of another CDCR entity. Parolees who relinquished their property to a federal, county, or other state agency official should seek resolution directly with that entity. When it is established that the Department is responsible for a parolee's property loss or damage during release to parole, the sending institution shall settle the claim, regardless of where the loss or damage occurred.

**54100.23.4 Granted Property Appeals**

Unless otherwise specified in this Article the facility where the property loss or damage took place shall settle the claim. If the loss or damage took place during transit, or staff are unable to determine where the loss or damage occurred, the sending institution shall settle the claim. When the property loss or damage occurred during transit between the sending and receiving institutions, a copy of all granted property claims shall be forwarded to the Director, Division of Adult Institutions, for corrective action if warranted.

If a property appeal is granted, an attempt shall first be made by staff to use local resources to substitute for or replace lost or damaged property at no cost to the State, or to repair the item at the institution's expense. An inmate/parolee's refusal to accept repair, replacement, or substitution of like items and value shall be cause to deny the appeal.

- When denying an appeal on the basis of appellant's refusal to accept like item and value

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

substitution, the reviewer must state why they believe the replacement offered is considered a like item of equivalent value.

- Monetary compensation to the inmate/parolee shall be considered only if repair is not possible, and replacement or substitution of like items of equivalent value are not available.
  - Both a first and second level review is required prior to awarding a monetary reimbursement for lost or damaged property. First level responses recommending a monetary reimbursement shall instruct the appellant to resubmit the appeal for a second level review. The second level review may affirm, modify or deny the first level recommendation.
  - Actual monetary reimbursements shall not exceed limits imposed in accordance with the Personal Property provisions of 15 CCR §§ 3190-3195.

Monetary claims for amounts of \$100 or less are filed with and settled by the Department directly. Under Government Code Section 935.6 the VCGCB may authorize the Department to settle and pay claims for higher amounts. In the event such delegation is granted, guidance provided by departmental accounting officials specific to this matter shall be prevailing.

- The distribution of completed second level property appeals for \$100 or less includes:
  - Original to appellant.
  - Copy to institution or parole region appeals coordinator.
  - Copy to institution accounting office (inmate cases).
  - Copy to Central Office accounting office (parolee or reentry cases).
  - Copy to institution or parole region records.
- Before payment of any granted claim, the inmate/parolee shall discharge the State in writing from further liability for the claim pursuant Government Code Section 965. The original of this discharge shall be maintained in the institution/parole region accounting office and the inmate/parolee shall be provided a copy.

**54100.23.5                      Granted Third Level Appeal**

If the Secretary's level action is to grant and/or endorse a monetary claim, a written response shall be prepared, attached to the appeal package, and returned to the appellant.

- Copies of granted appeals for claims of \$100 or less shall be forwarded by the third level Appeals Chief to the hiring authority for payment as described in DOM 54100.23.4.
- Additional copies shall be sent to the appeals coordinator, and to the records office for inclusion in the appellant's file pursuant to DOM 54100.23.4.

Granted second level appeals exceeding \$100 shall require third level review and VCGCB approval prior to payment.

- Copies of granted appeals for claims over \$100 shall be forwarded by the third level Appeals Chief to the VCGCB.
- Additional copies shall be forwarded to the hiring authority for inclusion in the appellant's file, to the appeals coordinator, and to the institution or Central Office accounting office BSS as appropriate pursuant to DOM 54100.23.4.

**54100.24 Conditions of Parole Appeals**

Inmates or parolees may appeal discretionary imposition by the Department of special and additional special conditions of parole, requesting removal or amendment of any condition unnecessary for public safety, security or rehabilitation purposes. Prior to filing an appeal, a

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

request to remove or amend an imposed condition or conditions may first be made via a written request (CDCR Form 22) directed to the assigned parole agent and submitted in accordance with the provisions of the Request for Interview, Item or Service article (DOM 54090).

- Specific reasons for objection to the condition(s) in question shall be stated and any necessary supporting document or information attached to the request.
- An appeal of parole conditions shall be reviewed and signed at the Second Level of Review.

**Review and Time Limits**

An appeal regarding a request to remove or amend one or more of the condition(s) of parole shall be filed within 30 calendar days of imposition or within 30 calendar days following receipt of the written confirmation of the supervisor's decision to uphold the condition(s) as originally imposed (With respect to supporting document requirements, see DOM 54100.8).

- The first level review shall be waived and the second level of review shall be completed by the regional parole administrator or designee.
  - Appeals of special conditions of parole shall be addressed by the parole region.
  - If the appeal is sent to the institutional appeals coordinator by mistake, it shall be forwarded to the appropriate parole region and the inmate/parolee notified that the appeal has been forwarded.
- The appellant, if dissatisfied with the second level of review, shall forward the appeal to third level.

**54100.24.1 Parole to County of Last Legal Residence**

Appeals on release to county of last legal residence shall not be accepted until the CDCR Form 611, Release Program Study/Parole Assessment (RPS) has been returned to the institution by the parole region. Institution caseworkers, upon receipt of an appeal alleging safety concerns in the county of last legal residence, shall review and compare the factual information contained in the inmate's C-File. This review shall include a personal interview with the inmate and all information obtained shall be documented by the caseworker on a CDC Form 128-B. A copy of the CDC Form 128-B shall be attached to the appeal prior to submission to the parole region. The appeal shall be sent to the regional appeals coordinator where the RPS was completed, who shall route the appeal to the appropriate assistant RPA for first level review. The RPA shall conduct the second level review. The inmate/parolee may appeal to the third level Appeals Chief if dissatisfied with the second level response.

**54100.24.2 Re-entry Program Placement or Denial**

Appeals of placement in specific reentry locations or programs shall be sent directly to the appeals coordinator of the parole region from where the decision occurred. The first level review of the placement decision shall be conducted by the supervisor of the staff member who made the decision. The Regional Administrator or designee shall conduct second level reviews.

The appellant may, if dissatisfied, forward the appeal to third level.

**54100.25 Staff Complaints**

An inmate/parolee appeal which alleges facts that would constitute misconduct by a departmental employee shall be logged as a staff complaint by the appeals coordinator only after review and categorization as a staff complaint. Such review must be completed by an employee designated by the hiring authority at a level not below Chief Deputy Warden, Deputy Regional Administrator or equivalent.

- In the context of this article, "staff misconduct" means staff behavior that violates or is contrary to law, regulation, policy, procedure, or an ethical or professional standard.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- Confidentiality of a staff complaint may be achieved through submission as confidential correspondence addressed to any official having responsibility for the custody, parole supervision or care of the inmate or parolee appellant. Hiring authorities receiving such allegations shall, in addition to the requirements of this article, ensure that the procedures and safeguards pertaining to Employee Misconduct investigations/Inquiries (see DOM 31140.4) are satisfied.
- Unless circumstances suggest a potential threat to the safety and security of the institution or persons, appeals which generally allege misconduct but provide no facts or evidence of behavior that could be construed as misconduct, shall ordinarily be rejected and sent back to the sender for additional information. If the appellant does not provide the requested clarification of the alleged misconduct the appeal need not be processed as a staff complaint.
- This process is distinct from the filing of a citizen's complaint lodged pursuant the provisions of Penal Code §832.5 by a person not under the jurisdiction of the Department.
- A staff complaint alleging excessive or inappropriate use of force shall be addressed pursuant to the procedures set forth in 15 CCR §§ 3268-3268.2.
- Upon referral after date stamping, the hiring authority of the involved area will review and/or respond to any staff complaint except those filed directly against the hiring authority or above.

When an appeal is received alleging staff misconduct that also includes issues such as property complaints, classification actions, or other issues, the appeals coordinator will:

- Inform the inmate/parolee in writing that the appeal will be addressed as a "staff complaint" and that other appeal issues(s) may only be appealed separately and resubmitted if the intention is to seek resolution of those issues.
- 30 day time constraints for the additional appeal begin the date the inmate/parolee receives notice from the appeals coordinator of the above determination.

In the event the hiring authority makes a determination that the complaint will not be categorized as a staff complaint, it shall be processed as a routine appeal based upon the issues raised including those alleged as misconduct. The appeal response must show why the appeal did not meet criteria for processing as a staff complaint, explaining how the issues raised were not indicative of misconduct.

**54100.25.1 Rights and Responsibilities Statement**

An appeal that alleges misconduct by a departmental peace officer as defined in 15 CCR 3291(b) shall be accompanied by the 15 CCR 3391(b) Rights and Responsibility Statement.

- An appeal received without such statement shall be processed and the statement obtained from the appellant at the time of the initial appeal interview.
- Should the inmate/parolee refuse to sign the Rights and Responsibilities Statement, the appeal shall be cancelled for lack of cooperation.
  - Cancellation does not relieve the Department of its responsibility to address alleged staff misconduct as revealed or suggested via the cancelled appeal. Therefore, the appeal shall be returned to the hiring authority for determination if an inquiry remains appropriate in light of the refusal to cooperate.
  - The result of any such inquiry shall not be shared with the appellant and the appellant will not be considered to have exhausted administrative remedies.

**54100.25.2 Processing of Staff Complaints**

No less than weekly (within five working days), complaints alleging staff misconduct will be

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

presented by the appeals coordinator to and shall be reviewed by the hiring authority or designee who shall make a determination whether the allegation will be processed as a staff complaint. That determination shall consider whether the appeal alleges staff behavior which would be a violation of law, regulation, policy, procedure or prevailing professional or ethical standards. Such misconduct need not be the focus of the appeal, but if facts are alleged which suggest misconduct, the matter must be referred to the hiring authority to determine the following type of processing:

- As a routine appeal, but not as a staff complaint, as there is no evidence to suggest staff misconduct.
- As a confidential staff complaint appeal inquiry as the nature of the allegation or the lack of evidence makes adverse action unlikely.
- As a referral to Internal Affairs for an investigation as the evidence or the circumstances suggest that adverse action is likely if the allegations are proven.

The employee shall be notified as soon as possible in accordance with any applicable bargaining unit agreement when an appeal is accepted as a staff complaint unless the hiring authority determines that the matter involves a confidential investigation that would be compromised by such notice.

If the hiring authority makes a determination that the complaint warrants an Internal Affairs investigation, the following shall occur:

- The appeals coordinator shall bypass the first level review and respond at the second level, noting that the appeal is granted or partially granted and referred for an Internal Affairs investigation.
- An Internal Affairs Investigation Request shall be completed and forwarded to the Office of Internal Affairs with all accompanying information and documentation.
- Upon completion of the investigation, the appellant shall be notified of the outcome.

When an allegation does not warrant an Internal Affairs investigation or the matter is declined by the Office of Internal Affairs, but does warrant an inquiry, the following shall occur:

- The appeals coordinator will assign the staff complaint for a first or second level response at the discretion of the hiring authority.
- A Confidential Appeal Inquiry shall be conducted in conjunction with the review response.
  - Review and approval of the Confidential Appeal Inquiry supplement by the hiring authority or their delegated representative no lower than the level of a Chief Deputy Warden or equivalent shall occur.
  - The appellant need not be interviewed by the person preparing the appeal response if a confidential inquiry has been completed.
  - The appeal inquiry supplement with a red cover sheet attached, designating it as confidential, is to be placed in the appeal file. The appellant will not be provided a copy.
- After completing interviews with pertinent witnesses, the subject of the staff complaint may be interviewed (if necessary to reach a determination) by a person trained to conduct administrative reviews. A Notice of Interview shall be served at least 24 hours prior to such interview.
  - If the subject chooses to waive the 24 hour requirement, he or she must indicate this at the time he or she is given notice.
  - Upon voluntary waiver, the subject may be interviewed immediately, if desired.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- At the time of the interview the subject of the interview shall be served with an Admonishment of Rights which is to be signed prior to any interview.
- The subject may request to record the interview and will be allowed to retain their copy of the recording. However, under such circumstances, a concurrent separate recording shall be made by the Department and retained in the appeal office. Only the subject can initiate a request to record the interview.
- Pertinent witnesses are those individuals in possession of information or knowledge necessary to come to a reasonable conclusion as to whether or not policy was violated.
- The witnesses need not be noticed or admonished, nor shall a witness be allowed to record the interview or have a representative present.
- If at any time during the course of the appeal inquiry the reviewer discovers information indicating misconduct may have taken place of a severity that would likely lead to adverse personnel action the reviewer shall:
  - Cease further interviewing of staff or inmates/parolees.
  - Bring the matter to the attention of the hiring authority.
  - The hiring authority shall make a determination whether the matter will be referred for Internal Affairs investigation.
- The confidential inquiry shall review the information available to determine whether policy was violated and the confidential report shall summarize the review and include a determination of the findings concerning the allegation.
  - The author of the report shall provide sufficient facts and testimony to reasonably support the conclusion(s) given.
  - This report shall be kept with the appeal file in the Appeals Office and no other copies shall be kept or maintained except as described in this subsection or as needed for third level review or litigation. The document is strictly confidential to all inmates and any staff except those involved in the inquiry process or litigation involving the Department.
  - Accused staff may view the confidential report in the appeals office upon approval of the Litigation Coordinator, but if any information relating to other staff is contained therein, a copy shall be made and that confidential information redacted prior to the review. Neither the original nor the copy shall leave the appeals office (except as specified above) and any redacted copy shall be placed with the original after review.

The institution/parole region's appeal response to a staff complaint shall inform the appellant of the status of the referral for investigation and outcomes as follows:

- The referral for investigation and the status of the investigation. Additionally, the appellant shall be notified of the outcome at the conclusion of the investigation.
- The decision to conduct a confidential inquiry and whether the findings determined that the staff in question did or did not violate department policy with regard to each of the specific allegations(s) made.
- In the event that the matter is rejected by OIA due to insufficient evidence and the hiring authority elects not to complete an inquiry because the OIA review is sufficient to exonerate staff, the appellant shall be noticed that a finding has been made that policy was not violated.

An appeal alleging staff misconduct by an appeals coordinator shall be reviewed by the hiring authority for determination of processing. If accepted for processing at the first level, neither the appeal response nor the Confidential Supplement to Appeal, Appeal Inquiry shall be prepared or

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

reviewed by staff assigned to the Appeals Office.

**54100.26 Civil Addict Exclusionary Review**

Exclusion is the process by which a civil addict/releasee is returned to the court of original jurisdiction with a recommendation to vacate the civil commitment because of the individual's unsuitability for the civil addict program.

- Pursuant to Welfare and Institutions Code Section 3053(a) and 15 CCR §3625(b) unsuitability is based on staff judgment that a civil addict/releasee is not fit for confinement or treatment, not amenable to supervision, has not or is not available for supervision, and/or has a history of absconding.
- Prior to being forwarded to the committing court, the documented staff judgment, including reasons, rationale, and conclusions reached pertaining to the exclusion decision shall be provided to a civil addict/releasee.
- Unless the exclusion decision is based upon a commitment to prison, deportation or releasee-at-large status, the incarcerated civil addict/releasee may request a review of the decision for the purpose of retention in the civil addict program.
- Prepared documentation shall be held for 30 calendar days to afford time for such requests submitted by the incarcerated civil addict/releasee. Absent objection prior to the end of the 30<sup>th</sup> calendar day, the documentation shall be forwarded to the committing court.

**54100.26.1 Exclusion Recommendation Appeal**

An incarcerated civil addict/releasee shall appeal the exclusion recommendation as follows:

- Civil addicts in the institution are notified of intention to exclude initially in Unit Classification Committee (UCC). Objection to this decision during committee automatically acts to refer the exclusionary recommendation to the institutional classification committee (ICC).
- Other appeal processes notwithstanding the UCC functions as the first level of review and the requirements for second level of review are satisfied by the ICC.
- The ICC recommendation is the final departmental decision and exhausts administrative remedies in this matter.

If retention in the civil addict program is not the outcome of the appeal, the civil addict/releasee shall be officially notified of exclusion by receipt of a copy of the exclusionary letter to the committing court.

**54100.27 Health or Safety Complaint (CALPIA)**

Inmates employed by CALPIA shall submit any complaint concerning perceived health or safety hazards relating to prison industries to the prison industries' safety committee, in accordance with Labor Code (LC) and Industrial Relations regulations.

- The CDCR Form 602 shall not be used for the purpose of such complaints. A Cal/OSHA form for the reporting of alleged safety or health hazards may be used, but is not required.
- A health and safety complaint should not be used by inmates as a substitute for verbally or otherwise informing staff of an urgent health or safety situation requiring immediate response or action.

An inmate who believes a health or safety hazard exists in a CALPIA operation is afforded the opportunity to submit a written complaint.

- The complaint shall be deposited in a readily accessible complaint box or presented to any CALPIA staff member, including the inmate supervisor, member of the health and safety committee, or the affected shop superintendent or their equivalent.

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

- Any CALPIA staff member receiving a written health and safety complaint for an inmate worker shall direct it to the health and safety committee for review and response.

If the inmate finds the committee's conclusions to be unsatisfactory for any reason, he or she may request the complaint be forwarded to the Department of Industrial Relations, Division of Occupational Safety and Health (DOSH).

- The CALPIA Health and Safety Unit shall coordinate the submission of any health and safety complaint submitted pursuant to this section which cannot be resolved by the Safety Committee or for which the complainant is not satisfied to DOSH.
- DOSH shall determine whether any complaint is bona fide and respond in accordance with the requirements of LC Subsection 6304.3(b).

Should the inmate believe that retaliatory action has taken place as a result of the complaint, the inmate may file a CDCR Form 602 appeal of this alleged retaliation with the institution appeals coordinator.

**54100.28 Movie/Video Selection or Exclusion Appeal**

Movies/videos that have been given a rating of other than "G," "PG," or "PG-13" by the Motion Picture Association of America are not approved for either general inmate viewing or for viewing within institutional classrooms, and are not subject to appeal at any level. The first level of appeal shall be waived for appeals related to the selection or exclusion of a "G," "PG," or "PG-13" rated or non-rated movie/video for viewing and the second level response shall constitute the Department's final response on appeals of this nature.

**54100.29 Term Computation Appeals**

Whenever an inmate or parolee files a CDCR Form 602 which sets forth a specific, clearly stated claim regarding an error in the computation of a term of confinement or period of parole based upon documentation in the record, and the issue is not resolved (granted) at the first level, the inmate or parolee may request a computation review hearing. (Reference: Haygood v. Younger, (1985)-769 F. 2d 1350.)

- Other classification, pay or work time issue appeals shall be addressed by a classification committee or work supervisor, and shall not warrant a computation hearing.
- The only issue to be determined in the hearing is whether or not an error has been committed which adversely affects a term of confinement or period of parole.
- The computation review hearing, when scheduled, shall constitute the second level of review.

**54100.29.1 First Level**

Parole period and term computation appeals shall be reviewed at the first level by the Department's records staff. The inmate or parolee must state in detail the alleged error or reason for disputing the calculation of his or her release date. The case records staff shall research the case, considering case law and department policy and procedure. If the relief requested is not granted at the first level, the CDCR Form 602 appeal shall be returned to the inmate or parolee along with two copies of the CDC Form 1031, Notice of Right to Request a Computation Review Hearing. The inmate/parolee shall sign the notice acknowledging receipt. The signed form shall be returned to case records staff for filing in the miscellaneous section of the inmate's/parolee's C-File. The inmate/parolee shall retain the second copy.

**54100.29.2 Appeals Coordinator**

If the inmate or parolee wishes to have a computation review hearing, he or she shall submit the same CDCR Form 602, filling out Section D, to the appeals coordinator. The appeals coordinator



**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

shall forward the CDCR Form 602 within five working days of receipt to the case records supervisor/manager. The case records supervisor/manager shall date stamp and log the appeal on the CDC Form 1059, Computation Review Hearing Log.

**54100.29.3 Second Level**

The case records supervisor/manager shall schedule the computation review hearing, which shall be held within 15 working days of receipt of the CDCR Form 602. The case records supervisor/manager shall send two copies of the CDC Form 1032, Notice of Time, Date and Place of Computation Review Hearing, to the inmate or parolee who shall be notified at least 24 hours prior to the hearing unless the inmate or parolee waives the time constraints. The counselor or designated staff shall immediately return the signed original to the case records staff for logging on the CDC Form 1059. The case records supervisor/manager shall research the case, taking into consideration all case law and department policy and procedures.

**54100.29.4 Hearing**

The case records supervisor/manager shall conduct the hearing during the inmate's non-assigned hours.

- Other staff designated by the institution/parole administration may attend this hearing. Location of the hearing shall be at the discretion of local authorities.
- It may be necessary to conduct the computation review hearing by telephone for those inmates housed in camp, other jurisdictions and parolees.
- If so, the completed notice of time, date, and place of computation review hearing shall reflect that the inmate/parolee was advised of the time of the hearing by telephone or other means.

If it is determined an error has been made, the case records manager/supervisor shall grant the appeal and correct the error.

- At the conclusion of the hearing, two completed copies of the CDC Form 1033, Computation Review Hearing Decision, shall be made. A completed copy shall be given to the inmate.
- At the conclusion of a computation review hearing conducted by phone, the inmate/parolee shall be advised of the decision and that a completed computation review hearing decision shall be mailed that day.

If the appeal is a matter that the Department has no authority to change, the appeal shall be denied. The appellant will be referred to the appropriate agency or court with jurisdiction of the matter for disposition. If the appeal is a sentencing discrepancy of which the Department seeks clarification from the sentencing court, the appeal shall be partially granted to the extent that an inquiry is being pursued and the Department shall pursue clarification of the noted discrepancy from the appropriate court.

**54100.29.5 C-File**

The CDCR Form 602 and the original CDC Form 1033 shall be sent to the appeals coordinator for processing.

Upon completion of processing, a copy of the CDCR Form 602 and CDC Form 1033 shall be forwarded to case records for placement with the CDC Form 1031 and CDC Form 1032 in the miscellaneous section of the inmate/parolee's C-File.

**54100.30 Joint Venture Program (JVP) Employer Related Grievances**

The Department's participation in the Joint Venture Program is authorized pursuant 15 CCR §§ 3480-3486. Any current or former Joint Venture inmate-employee who believes he or she has a grievance regarding a wage and hour or retaliation claim against a JVP employer shall submit the

**DEPARTMENT OPERATIONS MANUAL**  
**CHAPTER 5 – ADULT CUSTODY AND SECURITY OPERATIONS**  
**ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised July 29, 2011*

written grievance to the JVP Chief.

- The JVP Chief shall attempt to resolve all complaints.
- Time frames for filing grievances will be governed by the Division of Labor Standards Enforcement's (DLSE) statutes of limitations, including but not limited to, Labor Code §98.7, and Code of Civil Procedure §§337, 338 and 339, for the appropriate type of complaint.
- If the inmate is dissatisfied with the JVP Chief's decision, the inmate may file a complaint with the Labor Commissioner.

**54100.31 Appeals Reports**

Institution and parole region appeals coordinators shall prepare and provide reports upon request. These appeal reports may include appeal types, outcomes, volume, and similar statistical results of appeal actions.

As necessary, the Office of Appeals shall audit and compile this data in reports distributed to departmental administrators, the courts, and other jurisdictions or agencies.

**54100.32 Revisions**

The Director, Division of Adult Institutions, in conjunction with the Director, Division of Adult Parole Operations, or designee, shall ensure that the content of this article is accurate and current.

**54100.33 References**

Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. §1997 et seq. Public Law 96-247, 94 Stat. 349.

Title 28 Code of Federal Regulations §35.107.

PC §§ 148.6, 832.5, 832.7, 832.8, 3003(a), 5054, 5058, 5058.4(a) 10006(b).

GC §§ 935.6, 965, 3300-3313, 19570-19575.5, 19583.5(a), and 19635.

CCP §§337, 338, 339.

LC §§98.7, 6304.3.

W&I §3053(a)

Title 15 California Code of Regulations §§ 3084 and 3086, 3138, 3190-3195, 3220.4, 3268-3268.2, 3312, 3314, 3318, 3220, 3326, 3376.1, 3383, 3480-3486, 3620, 3625, 5400.

Title 8 California Code of Regulations §§ 344.40, 344.41, 344.42, 344.43.

Titles I and V of the Americans with Disabilities Act of 1990 (Pub. L. 101-336) (ADA), as amended (Volume 42 of the United States Code, beginning at §12101.

Wolff v. McDonnell, 418 U.S. 539 (1974).

Armstrong v. Schwarzenegger, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006.

Vasquez v. State of California, 105 Cal.App.4th 849 (2003) as implemented by the Stipulated Injunction and Order entered by the Superior Court of San Diego County in Case No.GIC-740832.

Haygood v. Younger (1985) 769F, 2nd 1350.

Board of Parole Hearings, Administrative Directive 04/01, May 1, 2004.